IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22/09/2004

Coram

The Honourable Mr. Justice A.K.RAJAN

Writ Petition No.21549 of 2003

L.Poomayil .. Petitioner

-Vs-

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram & District.
3. The Commissioner,
Ramanathapuram Panchayat Union,
Ramanathapuram & District.
4. Tmt.Padampriyal. .. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus as stated therein.

For petitioner:Mr. G.Sankaran

For respondent:Ms. V. Velumani,
AGP for R1 and R2

Mr. P.S.Jayakumar for R3 & R4

:O R D E R

The Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent relating to the order in Na.Ka.A3/408/03 dated 28.4.2003 and to quash the same and to direct respondents 1 to 3 herein to amend the Vennathur Panchayat Electoral Roll, Ward No.IV by deleting the name of the fourth respondent in Sl.No.294.

3. The petitioner is a resident of Sambai village/Ward No.III, Vennathur village panchayat. During the Local Body Election of 2001, the petitioner contested and lost the election. In the said election, the fourth respondent was elected as President of Vennathur Panchayat. As per the Tamil Nadu Panchayat (Election) Rules, 1995, the electoral roll of the

Panchayat shall be prepared by the Panchayat Electoral Registration Officer, and the electoral roll shall be published, and only when such names are published, it becomes electoral roll, as per Rule 20. If there is any omission or objection to any entry in the roll, it can be made to the Electoral Registration Officer under Rule 21. The fourth respondent is the permanent resident of Devipattinam village panchayat and her name is included in the Devipattinam Panchayat electoral roll in Sl.No.581; her husband owns a house in that village and he is having a voter identity card given by the panchayat. While so, the name of the fourth respondent was wrongly included in the Vennathur Panchayat in Sl.No.294. When the fourth respondent is the permanent resident of Devipattinam Panchayat, the inclusion of her name in Vennathur Panchayat is an error. Name of an individual cannot be entered into two electoral rolls of two different panchayats. Hence, inclusion of the fourth respondent's name in Vennathur Panchayat electoral roll is a wrong entry. Hence, name of the fourth respondent in Vennathur electoral roll is to be deleted. As per Rule 21, the petitioner lodged the objections to respondents 1 and 3 against the entry of the name of the fourth respondent in Vennathur Panchayat electoral roll as early as on 31.8.2002 seeking to amend the roll by deleting the name of the fourth respondent. But, that objection was not considered and necessary amendment in the electoral roll was not made. Hence, she filed WP No.2206/03. By Order dated 2 8.1.2003, this Court directed the respondents therein to deal with the objection filed by the petitioner in accordance with law and dispose of the same within a period of eight weeks. Thereafter, she made an application. But, no orders were passed within the stipulated period. The impugned order is passed without application of mind and is against Rule 21 of the Panchayat Rules, which permits any persons to make objections at any point of time after publication of the electoral roll under Rule 20. Hence, the writ petition.

4. The Commissioner of Ramanathapuram Panchayat Union has filed a counter affidavit wherein it is stated that the panchayat electoral roll was prepared based on the electoral roll of the Legislative Assembly Constituency concerned and without any orders from the Legislative Assembly Constituency Electoral Registration Officer concerned (R. D.O./Sub-Collector) no addition/deletion should be made in the electoral roll of the panchayat. The panchayat election has been conducted in October, 2001. The petitioner should have given an objection in respect of the fourth respondent to the Assembly Electoral Registration Officer. But, that was not done till the election was over. No complaint was given to the Election Officer in respect of the fourth respondent. In WP No.2206 of 2003, the Collector of Ramanathapuram was directed to dispose of the representation given by the petitioner. The District Collector had instructed that the petition, if any, for deletion or inclusion of names in the electoral roll of the panchayat can be entertained by the Electoral Registration Officer of the panchayat. As per the above instructions, the petitioner was properly informed by the Panchayat Electoral Registration Officer and the Panchayat Union Commissioner, Ramanathapuram. The third respondent by his proceedings dated 28.4.2003 informed that the petitioner should approach the Electoral Registration Officer of the Assembly constituency for the settlement of her objection. Further, it is stated in the counter that the fourth respondent is the native of Muthuraghunathapuram, within the jurisdiction of Vennathur panchayat in Ward No.4. Therefore, the fourth respondent's name is found in the electoral

roll of Vennathur panchayat. After the election was over, the petitioner objected to the fourth respondent's election stating that she was not within the jurisdiction of Vennathur panchayat. However, no objection was filed to the Electoral Officer before election. Therefore, only an election petition could be filed. The petitioner has objected the fourth respondent's election only after the election was over. The fourth respondent does not suppress any fact before the Election Officer.

5. During the argument, the learned Additional Government Pleader produced a copy of the order dated 29.12.2003 whereby, the Revenue Divisional Officer of Ramanathapuram has passed an order on the enquiry conducted by the Tahsildar of Ramanathapuram, deleting the names of Munusamy and Tmt. Padampriyal/fourth respondent herein from the Voters' List of Devipattam Panchayat.

6. The learned counsel for the petitioner submitted that the petition for deletion of any name in the electoral roll can be given at any point of time under Rule 21. Therefore, the impugned order that such objections can be given only at the time of preparation of electoral roll for panchayat election, is not legally sustainable.

7. In the communication dated 6.3.2003 issued in pursuance of the judgment of this Court, it has been stated that for deletion or objection of any names in the electoral roll can be given to the Tahsildar while he prepares the electoral roll. Rule 21 reads as follows:

" Procedure for lodging claims and objections. - All omissions of names in any part of the roll or objections to any entry in the roll, at any point of time after its publication under rule 20, shall be settled by first getting amended suitably the relevant portion of the electoral roll of the Tamil Nadu Legislative Assembly Constituency based on which the panchayat roll was prepared. Anybody wishing to raise a claim for inclusion of any name in the roll or any objection in respect of any entry in the roll so published, shall submit a proper claim or objection under the provisions of the Registration of Electors Rules, 1960 to the Electoral Registration Officer of the concerned Legislative Assembly Constituency. Subject to the provisions in section 30 of the Act and based on the orders of the Electoral Registration Officer of the Assembly Constituency on such claims and objections, the Panchayat Electoral Registration Officer shall amend the relevant portion of the panchayat electoral roll, incorporating the changes by issuing an amendment to the relevant part of the panchayat electoral roll. In case of any clerical or printing error or both, and when the entries deviate from the particulars of Assembly roll, the Panchayat Electoral Registration Officer may cause such errors, omissions and commissions rectified so as to bring it in conformity with the particulars of the Assembly roll concerned. In other words, the Panchayat Electoral Registration Officer, will not resort to suo motu revision of the rolls by way of deletions or additions or modifications."

Objections to any entry can be made at any point of time after its publication under Rule 20. Rule 20 provides for preparation of the electoral roll in accordance with Rules 14 to 19. As per Rule 14, the electoral roll of the panchayat shall be prepared by the Panchayat Electoral Registration Officer by inserting the particulars in the various entries available in the current roll of Tamil Nadu Legislative Assembly and the various amendments issued to it

from time to time, as they relate to the ward of the Village Panchayat or a portion thereof. Sub-Rule 5 of Rule 14 provides -
"The electoral roll shall be prepared before every ordinary or casual election."
That is, the electoral roll for the Village Panchayat is prepared as per Rules 15, 16 as well as Rule 17. Therefore, the electoral roll is prepared before every ordinary or casual election. Such electoral roll is published under Rule 20, objections can be given under Rule 2 1 to any entry in the roll at any point of time and it shall be settled by the authority thereafter. Rule 21 also provides that if any one wishes to raise a claim for inclusion or any objection in respect of any entry published under Rule 20, shall submit a claim or objection under the provisions of the Registration of Electors Rules, 1960 to the Electoral Registration Officer of the Legislative Assembly Constituency concerned. The Electoral Registration Officer concerned would consider and pass necessary orders. But, this power of the Electoral Registration Officer would be only to rectify the electoral roll in such a manner as to bring in conformity with the particulars of the Assembly roll concerned. He cannot go beyond this, namely, to bring it in conformity with the particulars of the Assembly roll.

8. In as much as, admittedly, the fourth respondent's name is found in the Assembly electoral roll both at Vennathur panchayat and Devipattinam panchayat, the Election Officer cannot pass any order deleting the name, which would be contrary to the electoral roll of the Assembly Constituency since Rule 21 is subject to Section 30 of the Tamil Nadu Panchayats Act, 1994. As per Section 30 (3) -
" No amendment, transposition or deletion of any entry in the electoral roll of the Tamil Nadu Legislative Assembly made after the last date for making nomination for election in any district panchayat territorial ward and before the notification of the result of such election, shall form part of the electoral roll for such election, for the purpose of this section."
Therefore, such deletions could be made only before the last date for making nomination for election. In case of any changes made after such nomination and before notification of the result of such election, it shall not form part of the electoral roll for that particular election.

9. Under the above circumstances, the present request by the petitioner to delete the name from the voters list cannot be considered at this stage. Further, the Revenue Divisional Officer has already deleted the name of the fourth respondent from Devipattinam village panchayat. Therefore, the petitioner cannot be said to have any grievance. Now that, the Revenue Divisional Officer had deleted the name from the rolls of Devipattinam village, the petitioner can have no grievance.

10. In the light of this Order, the representation of the petitioner shall be disposed of within a period of six months from the date of receipt of a copy of the order.

11. With the above direction, the writ petition is disposed of. No costs.
22.9.2004

Index: yes
Internet: yes

asvm/pb

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram & District.
3. The Commissioner,
Ramanathapuram Panchayat Union,
Ramanathapuram & District.